4901:1-5-03 Records and Reports

As OCC correctly ascertains, the proposed records and reports standards do not generally require carriers to provide records and reports on a regular basis. OCC argues that data must be submitted on a regular and timely basis to facilitate tracking and monitoring of performance and compliance with the MTSS. OCC recommends, and Edgemont/APAC agrees, the following language should be added to the proposed rule: "A telecommunications carrier not in compliance for two consecutive months with any of these standards shall be required to notify the Commission and the OCC. A violation for six consecutive months shall require a hearing". The proposed records and reports requirement represents a fundamental change in the reporting policy of the Commission.

The Staff's proposed reporting requirements represent an effort by the Staff to reduce the reporting requirements while maintaining access to sufficient information for the Commission and the Commission Staff to perform its duties. It has come to the Commission's attention that exception reporting, as is the requirement in the currently effective MTSS and as proposed by OCC, can be manipulated by the LEC by achieving good performance every other month to avoid reporting and to camouflage problems. Complaints to the Public Interest Center hotline and customer service audits have been more effective in revealing minimum service level compliance problems. Furthermore, the Commission believes that the proposed records and reports requirements are not only necessary to determine compliance with MTSS, but may also assist in resolving disputes between NECs and ILECs. Accordingly, the Commission is not persuaded that the proposed records and reports requirements are, or will be, a hindrance to LECs or NECs entering the local service markets as asserted by some commentors.

OCC requested, and Edgemont/APAC supported, the contention that OCC performs an important function and needs access to all information filed with the Commission in order to be effective. While the Commission agrees with Edgemont/APAC that OCC performs an important function, the Commission must nevertheless deny the request of OCC to have all documents filed with the Commission be served also on OCC. Both the Commission and OCC are agencies created by statute and, thus, limited by the jurisdiction granted by the General Assembly. The Commission's scope of jurisdiction is delineated in Section 4905.05, Revised Code, which reads in pertinent part:

> The jurisdiction, supervision, powers, and duties of the public utilities commission extend to every public utility and railroad, the plant or property of which lies wholly with in this state and when the property of a public utility or railroad lies partly within and partly without this

> state to that part of such plant or property which lies within this state;

In comparison, the OCC's jurisdiction is outlined in Section 4911.14, Revised Code, which reads in pertinent part:

> The jurisdiction of the consumers' counsel extends to every case that he or another party brings before the public utilities commission involving the fixing of any rate, joint rate, fare, charge, toll, or rental charged for commodities or services by any public utility, the plant or property of which lies wholly within this state...

Based upon the clear and unambiguous language of the above cited statue, the Commission is vested with the authority to supervise, monitor and generally regulate the operations, policies and procedures of public utilities. The General Assembly assigned OCC the responsibility of representing the residential consumers of the state of Ohio in cases before the Commission which affect the rates, tolls, or charges for the commodity or services offered by a public utility. The clear language of Sections 4905.05 and 4911.14, Revised Code, delineate the jurisdiction of the Commission and the OCC. The General Assembly did not duplicate nor imply in any fashion that the duties and authority of the Commission were also vested in the OCC. Thus, the General Assembly did not intend or imply that the OCC should monitor or supervise the operations and/or performance of public utilities, only to represent the interest of residential customers in such proceedings before the Commission. Thus, the Commission concludes it is not necessary for the OCC to carry out its duties and responsibilities that all the records and reports of the telecommunications service providers be submitted to the OCC. Accordingly, the Commission will not revise the standards to require LECs and IXCs to file tariffs, reports, records or other documents with the OCC. As Sprint asserts, there is no basis in law to support OCC's suggestion that it should receive, by virtue of an administrative rule, copies of customer records, LEC corrective plans, or any other records required by the Commission. The OCC has access to relevant records and reports on a case-by-case basis, which is more than sufficient to enable OCC to fulfill its statutory duties. As many of the industry commentors assert, requiring that all records and reports be filed with the OCC as well as the Commission is unnecessary, overly burdensome and contrary to law. Moreover, OCC is an advocacy organization for residential customers albeit state funded. Were we to provide all such records to OCC, we would be equally compelled to provide such documents to advocates for business customers, payphone providers, NECs and others. OCC's request is hereby rejected. Accordingly, the Commission will not attempt to enact by administrative rule what the General Assembly elected not to do by statute.

The Commission appreciates OTIA's comments in relation to the effect that revisions of the MTSS may have on the checklist of MTSS reporting requirements

which appear as part of the annual report for small local exchange carriers (SLECs), as well as other LECs. The annual reports are due May 1st of each year. A revised annual reporting form will be developed reflecting the new MTSS and distributed to the affected entities as soon as possible. Finally, the Commission notes that Rule 4901:1-5-03(C), O.A.C., has been clarified to be applicable to LECs rather than all telecommunications carriers.

AT&T asserts that section (D) of the proposed rule, which requires a carrier to notify local area news media if a substantial disruption occurs, is not well tailored to achieve this important goal. AT&T argues that the "hard and fast" two hour deadline of the proposed rule will be difficult to manage and ultimately enforce. They propose that the standards should recognize that a carrier has an incentive to inform the public both of the problem and that it is working to restore service. While the Commission recognizes that the LEC has certain incentives to inform the public, it is equally as important for the Public Interest Center and the Emergency Outage Coordinator of the Commission to be aware and fully informed of the situation to best answer the calls of subscribers and public officials.

We agree with the modification proposed by CBT to Rule 4901:1-5-3(D), O.A.C., eliminating the reference to an exchange area to make this section consistent with the remainder of the proposed standards which recognizes that defining service areas by exchange will no longer be feasible with the introduction of new carriers. The Commission has also included a section in Rule 4901:1-5-03, O.A.C., which requires each LEC or IXC to notify the Commission's Emergency Outage Coordinator within two hours of any service disruption that is reported to any federal or state agency or the news media.

4901:1-5-04 FILING AND MINIMUM CONTENT REQUIREMENTS FOR LOCAL EXCHANGE CARRIER TARIFFS

OTIA, Ameritech and Century believe it is an unnecessary burden to maintain maps which delineate local calling and serving areas. Sprint and GTE assert that maps on file today only reflect local serving areas, while the text of the tariff contains information on calling areas. Based on the comments made and the experience of Staff assisting NECs to develop tariffs which comply with the 95-845 local competition guidelines, we agree with Sprint and GTE. It is more efficient and understandable for the serving area to be depicted on a map while the local calling area is more appropriately listed in the tariff. We are aware that Staff has been working with the NECs to add the serving and local calling areas to their tariffs. All of the NECs have been able to provide the Commission with maps of their respective serving areas, but have found it difficult to produce local calling area maps. Therefore, we believe that maps produced by the LECs depicting local calling areas is of little, if any value, while a tariff listing the points that can be called from each exchange is of more value. The serving area maps are not difficult to produce and are critical to the Commission Staff's ability to monitor compliance with the local service guidelines. NECs' maps on file with the Commission depict the serving area within which the NEC must provide

service within 24 months from receiving Commission authorization to offer local service (Guideline II.C.4). Therefore, the Commission has amended the proposed rule consistent with the local service guidelines and recent Commission practice. Furthermore, for consistency and clarity the Commission believes that Rule 4901-1(B)(2) should be revised in accordance with the November 7, 1996 entry on rehearing in 95-845.

Edgemont/APAC request that new party line service be disallowed. It is the Commission's understanding that party line service is practically non-existent and, therefore, there is no need to list it as an item to be included in the tariff. Where party line service currently exists through grandfathering, the tariffs specify the exact terms and conditions under which it can continue to be offered to grandfathered customers. Furthermore, if competition revives party line service, the Commission can resolve any issues concerning party line service at such time when an application is filed to offer the service.

The Commission recently ordered that disconnection language appear in all LEC tariffs Pursuant to the Entry on Rehearing issues on October 16, 1996 in Case No. 95-790-TP-COI, *In the Matter of the Commission Investigation into the Disconnection of Local Telephone Service for the Nonpayment of Charges Associated with Telephone Services Other Than Local Telephone Service, (95-790)* The proposed Rule 4901:1-5-4, O.A.C., is an important step to ensuring that all LECs have complied with Commission orders. Accordingly, the Commission finds CBT's recommendation that language concerning disconnection, advanced payment and deposits not appear in the tariff to be without merit and, thus, rejects it.

TRA maintains the Commission should grant NECs the ability to concur in existing ILEC service area maps, as long as the NECs' service areas are unchanged from the ILECs'. TRA believes that this will avoid the need to prepare duplicative maps already available to the Commission and the public. The Commission interprets the comments of TRA to imply that the proposed rules do not permit a NEC to duplicate the local calling area of the ILEC. Such is not the case or the intention. However, although a NEC's calling area is duplicative of that of the ILEC, the NEC's duty to provide the Commission or the public with the necessary information to comply with MTSS and/or the local competition guidelines is not negated.

4901:1-5-05 SUBSCRIBER COMPLAINTS AND COMPLAINT-HANDLING PROCEDURES

Considering the comments filed, the Commission has revised Rule 4901:1-5-5(A), O.A.C., to better describe the requirements for the LEC or IXC. We have revised the adopted Rule 4901:1-5-05(A), O.A.C., to include the definition of complaint in the rule itself and limited it to informal investigations by the Public Interest Center or the company. Further, the adopted rule requires the company inform the subscriber of the availability of the Commission's complaint-handling procedures, the Commission's address and toll free telephone number when the subscriber informs the company of

the complaint rather than once the subscriber voices dissatisfaction with the Company's resolution or explanation. Thus, the Commission finds that proposed section (E) is no longer necessary. The Commission also retained the currently effective reporting period of 10 days rather than the three days proposed by Staff. In response to Edgemont/APAC's request to add information regarding the Commission's complaint-handling procedures on the written report, we believe that Rule 4901:1-5-5, O.A.C., as we have revised it, and other information to be provided to consumers, adequately addresses their concerns to inform the subscriber of the availability of the Commission's Public Interest Center or if necessary, the subscriber's right to file a formal complaint with the Commission, in the event the dispute is not resolved by the LEC or IXC to the subscriber's satisfaction.

4901:1-5-06 CONSUMER SAFEGUARDS AND INFORMATION

(A) Marketing Practices

Past experiences have taught us that it would be unwise to merely allow companies to compete for customers and market services without some level of oversight against deceptive or misleading practices. As a result of competition in the interexchange market, Ohioans have been subjected to a host of deceptive marketing practices, including slamming. According to records maintained by our consumer services department, slamming complaints to our Public Information Center hotline increased from 375 slamming contacts in 1993 to 3,007 contacts in 1996.

Sections 4905.231 and 4905.381, Revised Code, as well as the general supervisory powers granted to the Commission in Sections 4905.04-4905.06, Revised Code provide the Commission authority to review the marketing practice of telecommunication providers. Section 4905.381, Revised Code, reads, in pertinent part:

> ... Whenever the public utilities commission finds after hearing in section 4905.26, of the Revised Code, that the rules, regulations, or practices of any telephone company with respect to its public service are unjust or unreasonable, or that the equipment or service of such public utility is inadequate, inefficient, improper, insufficient, or cannot be obtained, operating area, the commission shall determine the rules, regulations, and practices, thereafter to be adopted and observed, and prescribe the same by appropriate order to be served upon such company.

The Commission interprets the language of Sections 4905.05 and 4905.381, Revised Code, to grant more than sufficient authority to monitor and/or direct, among

other things, the marketing practices of a LEC. Clearly, under Sections 4905.231 and 4905.381, Revised Code, as well as under our general supervisory powers in Sections 4905.04-4905.06, Revised Code, the Commission is authorized to regulate and monitor the marketing practices of utilities under our jurisdiction. Federal law also confers upon the Commission the responsibility to protect the public interest and welfare. In adopting Section 253(b) of the 1996 Act, Congress envisioned that states would "impose ... requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers". The Commission believes that these are perhaps the most important consumer provisions within these rules. As all parties acknowledge, it is the consumers who should benefit most from competition. However, the Commission concludes that proposed Rule 4901:1-5-6(A) is in effect pursuant to the guidelines issued in 95-845 at guideline XVII.B and applicable to all LECs. Therefore, it is unnecessary to duplicate the provision in the MTSS.

(B) LEC and Interexchange Carrier Subscription/Slamming

The proposed MTSS for slamming substantively mirrors the slamming guidelines adopted in 95-845. Working Assets, while maintaining that MTSS should not apply to rebillers, interprets the proposed slamming rules to go beyond FCC regulations to require a letter of agency (LOA) in addition to verifying the primary interexchange carrier change. Working Assets asserts that the requirement for an LOA threatens to inhibit customer choice and imposes a significant barrier for companies in Ohio. Working Assets contends that customers will not mail in an LOA after they have selected a new carrier as the customer perceives no need to do so. Working Assets proposes that the Commission impose verification requirements consistent with the FCC and other states.

On the other hand, CBT interprets the proposed slamming rules as not offering anything new or different from the FCC rules and, therefore, concludes that they are unnecessary. Ashtabula's reply comments assert that the FCC rules are not sufficient to address the slamming problem, as CBT argues and as likely demonstrated by the number of slamming calls received by the PUCO hotline. The Commission believes that in the new regulatory environment, it is imperative that consumers have even more protection from the potential abuses of competitive entities than under traditional regulation; under traditional regulation it was clear to consumers who they had a complaint against, whereas in a competitive environment it may not be as clear. Past experiences have taught us that it would be unwise to merely allow companies to compete for customers and market services without some level of oversight against deceptive or misleading practices. As a result of competition in the interexchange market, Ohioans have been subjected to a host of deceptive marketing practices, including slamming. According to records maintained by our consumer services department, slamming complaints to our Public Information Center hotline increased from 375 slamming contacts in 1993 to 3,007 contacts in 1996.

MCI noted disagreement with the 3-day time limit to send new subscribers an information package. MCI argued that the time period is too short and burdensome. Also, MCI objects to including the name of the current LEC or IXC in the information package, as MCI would not know this information without requesting it from the customer. MCI does not presently provide a postage paid envelope with its LOAs and argues that it would incur undue expense to comply with this requirement. MCI's objection to the three-day time period and expense of including a postage paid envelope with its LOA is not well-made and without merit. Accordingly, the Commission rejects the revisions proposed by MCI.

In its initial comments OCC proposes several revisions to the proposed slamming provision. OCC suggested that (1) customers receive reimbursement for the amount of damages incurred or $1,000, whichever is greater for the experience of being slammed; (2) LECs/IXCs establish a toll-free anti-slamming telephone number; (3) LECs/IXCs semiannually notify subscribers that an LOA can be obtained; (4) LECs/IXCs inform the customer of the charge, if any, for changing carriers; and (5) use of third party verification be eliminated.

MCI, AT&T and OTIA strenuously oppose OCC's proposal to penalize the slamming entity $1,000. Industry commentors argue that the penalty is unwarranted, inappropriate, extreme, unnecessary, unjustified and beyond the Commission's jurisdiction. MCI strongly suggests that OCC's proposal to semiannually inform subscribers about LOAs and primary interexchange carrier freeze options is unnecessary and suggests that there are more effective, pro-competitive ways to resolve slamming. Primary interexchange carrier freezes, MCI asserts, should be the last resort and should not be managed by the ILEC. The requirement for an LOA in the event of a dispute places non-ILECs in an untenable position. Third party verification has been the most efficient and reliable means of confirming sales for MCI. AT&T and OTIA suggest that the FCC carrier subscription Rules be incorporated by reference. MCI further argues that it is unfair to prohibit LECs/IXCs from using other forms of authorization than LOAs in the event of a dispute, if the customer has not returned the LOA. Further, MCI argues that the requirement for an LOA invites customer fraud and abuse. The reply comments of OCC note that the adoption of the FCC's slamming Rules overlooks the fact that the proposed Rules are applicable to the LECs and these Rules are incorporated into the local service guidelines. OCC also correctly notes in its reply comments, this Rule substantially mirrors the slamming provisions of the local service guidelines issued in 95-845[6]. MCI contends the three-day time limit and postage paid return envelope are burdensome. We oppose extending the time period for LECs and IXCs to send out an information package beyond three days in these rules, unless a similar change is made to the local service guidelines. Furthermore, we believe that to require

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6 The only difference is that proposed rule 6(B) is applicable to IXCs and two minor clarifications were made. Local service guideline (B)(1)(a)(iii)d, reads "directly setting the rates for the subscriber", whereas the proposed rules reads "directly providing service to the subscriber;" and in the second sentence of B(3) the phrase "at rates equivalent to those charged by the subscriber's chosen carrier" has been added after "subscriber's calls".

a postage paid return envelope for LOAs is to the service provider's benefit, improving the chances of receiving the customer's signed LOA. The Commission clarifies that an LOA is not the only method of authorization for a primary interexchange carrier change as independent third-party verification and electronic verification are also acceptable methods to confirm an interexchange carrier change although a LOA is preferred. However, a LOA is the only form of evidence accepted in a dispute between a carrier and the subscriber.

CBT's proposal to rely on the FCC's slamming rules would also force the Commission to rely upon the FCC's interpretation and enforcement of such rules in circumstances where the Commission may wish to pursue action on the state level. In light of the numerous slamming complaints received in recent years, the Commission believes that a subscriber's ability to change carriers is one of the critical areas where consumer protection is vital during the transition to a competitive market. Although the need for a rule to address slamming may eventually be unnecessary, at the present time and in the near future, it is of great concern to the citizens of Ohio and the Commission. Accordingly, the Commission believes that a standard to protect subscribers from slamming should be adopted. However, the Commission believes that the standard should be incorporated by reference. Adopted Rule 4901:5-06(A), therefore, states the carrier subscription/slamming provisions issued in 95-845, at XVII.C., as revised from time to time, are incorporated as if fully rewritten herein and are thus made applicable to all LECs and IXCs.

(C) Subscriber Rights

For efficiency and clarity the requirements of proposed Rule 6(C)(1) have been incorporated into adopted Rule 4901:1-5-6(C)(7) and (B)(3). Proposed Rule 6(C) directed each LEC to provide subscribers with a summary of their rights and obligations upon the initiation of service and at least annually thereafter. Ameritech's initial comments assert that only some subscribers have an interest in understanding their rights as a telephone customer and that if a telephone customer bill of rights is required it should be the Commission and OCC who distribute this information to customers that want it. Ameritech also expresses concern that publication of the telephone customer bill of rights in Ameritech's directory will undo its publisher's efforts to streamline its directory and add about 32 million additional directory pages.

The Commission does not agree with Ameritech's contention that only some customers have an interest in understanding their rights, particularly in an emerging competitive environment. However, the Commission is cognizant of the unnecessary waste of paper and our natural resources. Accordingly, the proposed Rule will be amended requiring that the telephone customer bill of rights be provided by each LEC upon request and that a synopsis of the telephone customer bill of rights be printed in the directory, as shown in Appendix A. The Commission reminds all companies that certain information was required to be published in the directory by earlier Commission order and this rule is not intended to reduce or eliminate the necessity for such

information being published in the directory, including but not limited to information regarding call trace and inside wire maintenance.

Proposed Rule 4901:1-5-6(C)(2), O.A.C., required LECs to provide new subscribers of service or existing subscribers who changed their service with written notification of the service order itemizing all associated charges as well as information about the telephone customer bill of rights. The Commission concurs with the comments of MCI, OTIA and Sprint that the information required by section (C)(2) of this rule is confusing and redundant as such information is already required by proposed Rule 16(H). Accordingly, Rule 6(C)(2) is unnecessary and, therefore, shall be eliminated.

(D) Public Information

GTE and Sprint object to this provision. They assert the requirement that LECs produce maps that delineate local calling areas is extremely costly and burdensome. MCI, on the other hand, agrees with Staff's proposal to require LECs to provide detailed maps depicting their local calling areas. We do not agree with the comments of GTE and Sprint. The requirements of this rule, as OCC states, are consistent with the existing MTSS and should be retained, particularly with the potential of rapidly changing local calling areas. More specifically, current Rule 4901:1-5-8(A)(2), O.A.C., states that the following shall be available upon request for inspection, "Maps showing exchange, base rate, locality rate, and zone rate areas (where applicable) in sufficient size and detail from which all subscriber locations can be determined.....". However, proposed Rule 4901:1-5-6(D)(1), O.A.C., has been revised to allow a LEC to provide the required information at a location within the subscriber's local calling area.

The Commission agrees with the comments of Ameritech and several other providers, as to the publishing of the telephone customer bill of rights in its entirety within the directories. The Commission also understands the commentors' desire to, whenever possible, have requirements which affect the publishing of directories, mirror the requirements of other states in which the LEC serves. The Commission would note that Michigan and other states have a requirement similar to the telephone customer bill of rights which is herein proposed. This document should be provided by the LEC as some information in the telephone customer bill of rights will be specific to each local exchange carrier. Contrary to Staff's proposal that requested information be mailed within two days after receipt of a request, the Commission believes that a longer period may be necessary to respond to some requests for information and that the subscriber and company should have the flexibility to agree to the time by which the subscriber must receive the requested information. Furthermore, the LEC shall provide to a subscriber, upon request, a copy of the telephone customer bill of rights as specified in Appendix B to the rules. Therefore, the Commission concludes that the proposed rule should be revised accordingly and adopted.

(E) Directories and Subscriber Listings

In light of the many comments asserting that it is not practical to include a listing of all local calling areas in a single directory, especially due to the introduction of NECs and their calling areas, which may not coincide with the ILEC's calling area, we have amended proposed subsections (E) (1) and (3). Adopted Rule 4901:1-5-6(C)(1) and (3), O.A.C., requires that at a minimum, all of the appropriate telephone numbers within the local calling area be included in the directory. Further, section (4) has been modified to recognize revisions of the local calling area with the implementation of EAS, as well as scenarios where local competitors enter the marketplace and provide service to subscribers in areas which were not part of the ILEC's local calling area.

Although some commentors, mostly ILECs, dispute the need to list all serving companies on the front cover, the Commission believes that this section should be retained as proposed due largely to the comments and desires expressed by the public commentors as well as some of the NECs. Specifically, Ameritech recommended that the Commission eliminate proposed subsection (E)(5) claiming that the directory industry is a competitive one and the company issuing a directory should not be required to place the name of its competitors on the cover of its directory. Ameritech offered two alternatives to this Rule. The alternatives offered were to give the LEC and its directory publisher the option of printing the names of the serving LECs, the issuing LEC as well as competitors, on the cover of the directory or to deliver the directories in shrink-wrap with a notice identifying the LECs serving the area or including the information conspicuously inside the directory. The Commission concludes that neither of the alternatives offered by Ameritech are as effective as the proposed Rule for providing the public with an easily accessible method of informing the public of the LECs serving the area. Accordingly, the Commission believes it has likely alleviated some of the concerns raised by consumer-affiliated commentors by including the designation and explanation of local calling areas.

Based on the comments received, and for clarification, the Commission has decided to divide proposed Rule 6(E) into two sections. The first section will denote the order and the items which must appear on the front cover or first pages of the directory, which includes a notice instructing subscribers on the use of 9-1-1 services where available; telephone numbers for the state highway patrol, fire department and county sheriff or local police department, where appropriate for the subscribers served by the directory; and the LECs, their locations, the telephone numbers of the LEC business offices appropriate to the area(s) served and a listing of the company authorized methods for payment of subscriber bills. The other items originally proposed as a part of Rule 4901:1-5-06(E)(6), O.A.C., (each LEC's complaint-handling procedures, the area codes included in the directory, instructions to contact repair and directory assistance) and items which were originally proposed as a part of Rule 4901:1-5-06(E)(8), O.A.C., (instructions on how to place calls) may be published in any order the company sees fit. However, in light of the comments received from the industry, only a synopsis of the telephone customer bill of rights will be included in the directory with instructions as to how the subscriber could obtain the complete copy of the telephone customer bill of rights from the LEC. The proposed Rule 6(E)6(c) through (f) has been incorporated into

a newly adopted Rule 6(C)(7) and amended to include specific information to be listed in the informational pages of the directory. The language to be included in the informational pages of the directory as to the complaint-handling process, availability of low income assistance plans, billing adjustments, obscene or harassing calls, an explanation of both the LEC's and subscriber's responsibilities as to inside wiring and the telephone customer bill of rights must be submitted to the Commission's Public Interest Center at least 60 days prior to the directory publisher's deadline.

The proposed Rule 4901:1-5-6(E)(7), O.A.C., incorporated a provision which required the LEC to offer subscribers with unpublished numbers the option of message delivery service, pursuant to tariff. Many of the LECs commented that this service is problematic and no longer useful now that alternatives such as paging and wireless are available. The Commission is of the same opinion as the LECs in this instance and, thus, concludes that it is unnecessary to retain this service as a standard. Proposed Subsection (E)(7) will, therefore, be eliminated.

Proposed Rule 4901:1-5-6(E)(8), O.A.C., has been amended and incorporated into adopted Rule 4901:1-5-6(C)(7), O.A.C. Upon further consideration of proposed Rule 4901:1-5-6(E)(9), O.A.C., the Commission concludes that this section is not a true directory issue and is more appropriately placed in adopted Rule 4901:1-5-9(B) the consumer rights section with a modification to proposed section (d), based on industry comments.

(F) Rates and Special Charges Information

The Commission has adopted the language proposed by the TRA to clarify the intent of Rule 4901:1-5-6(F), O.A.C., and imposed this duty only upon LECs. The LEC is required to inform customers only as to the most economical rates it has available for its own customers. The Commission does not agree with the comments of the OTIA that such protections should only be afforded to residential customers particularly during the transition to a competitive marketplace. Nor does the Commission believe, as Sprint and GTE assert, that the requirements of this rule are unnecessarily burdensome in their application to business customers.

The Commission agrees with Edgemont/APAC that information concerning the leasing of phones should be provided to subscribers. However, the Commission finds it sufficient to include such information in the synopsis of the telephone customer bill of rights to be included in each directory as well as in the telephone customer bill of rights rather than within this provision of the rule. We disagree with Edgemont/APAC concerning the notification of customers affected by the institution of EAS and agree with the OTIA that such notices would be duplicative. The Commission routinely requires LECs to notify customers who are affected by the implementation of EAS in orders approving such plans. Furthermore, we find Edgemont/APAC's recommendation to require a notice to any customer whose service is devalued by the approval of any new service to be unworkable and unduly burdensome to the LECs.

Language has also been added requiring that a LEC inform applicants for local residential service of the deferred payment option. We believe the amendments to be appropriate and more than sufficient to educate and protect the public without being unduly burdensome for the service provider.

4901:1-5-07 BUSINESS OFFICES

Rule 4901:1-5-07(A), O.A.C., has been revised to require that a supervisor respond to a subscriber's request to speak with a supervisor by the end of the next business day rather than within 24 hours and to specify that business offices are prepared to address customer complaints. Also, in light of safety concerns raised by CBT, the Commission has eliminated the requirement for supervisory personnel to meet face to face with a subscriber to resolve a dispute. Further, certain clarifications have been made to sections (C) and (D). Commentors stated that the technical means to credit accounts immediately, when paid to an authorized agent, either does not exist or is to expensive to acquire. Therefore, the Rule has been amended to require that a subscriber's account be credited by the end of the business day and that when payments are made to an authorized agent, the LEC shall ensure that the payment is treated in the same manner as if it were received directly by the LEC.

4901:1-5-08 PAYPHONE SERVICE

OTIA[7] contends that the proposed requirements of MTSS in relation to payphones are unnecessary and inappropriate for LECs, as the FCC has adopted pervasive and preemptive rules that now govern the provision of payphone service. OTIA adds that the Rules concerning payphones are no longer applicable since this service is now deregulated according to Case No. 96-1310-TP-COI, *In the Matter of the Commission Investigation into the Implementation of Section 276 of the Telecommunications Act of 1996 Regarding Pay Telephone Services* (96-1310).

The Commission believes that Rule 4901:1-5-08, O.A.C., should remain substantially as written, and should apply to LECs as well as independent payphone providers. Contrary to the assertions of some commentors, the 96-1310 proceedings will not de-regulate all payphone services and this rule as proposed will still be applicable. The Commission observes that the FCC's recent decision in CC Docket No. 96-128, *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, requires only incumbent LECs to provide payphone access lines to payphone service providers. To the extent NECs also provide access lines to payphone service providers, Rule 4901:1-5-08, O.A.C., shall apply to the provision of such service. Furthermore, consistent with the Commission's revised requirements concerning LEC-provided pay telephone access lines, each LEC, including each NEC which offers access lines to payphone service providers (PSPs), is instructed to amend its tariff to reflect that all subscribers to these lines must satisfy the

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7 Ameritech and Century concur with the comments of the OTIA and recommend that the Commission adopt OTIA's position on the issue.

Commission's standards enacted in this proceeding, or risk termination of service and be subject to investigatory charges, consistent with the Commission's rules and regulations adopted in Case No. 88-452-TP-COI, *In the Matter of the Investigation Relative to the Compliance of Customer-Owned, Coin-Operated Telephones with Commission-Ordered Guidelines.*

Based on the comments filed, the Commission determines that certain revisions to Section (B), specifically subsections (1), (4) and (7), were appropriate to provide clarification. Subsection (1) was revised as recommended by OPA. Subsection (4) was amended to require the payphone to return currency and coins if it accepts such. Subsection (7) now states that "where 9-1-1 emergency service is unavailable, calls to the operator must connect to the underlying carrier". The language in subsection (8) was modified, since directories do not survive at outdoor payphone locations for extended periods of time and proposed subsections (9) and (10) were eliminated. The Commission has decided to amend section (H) to require that the Commission's investigatory costs may be charged to the payphone provider when the provider fails to correct violations. The Commission agrees with the comments of OPA that section (I) of this rule should be eliminated.

In light of the need to reevaluate minimum telephone standards as they apply to payphone service, the extensive and numerous comments made in this docket on the subject will be thoroughly evaluated and decided upon in 96-1310. Therefore, except to the extent noted above, this rule shall be enacted as proposed by Staff. However, adopted Rule 4901:1-5-08, O.A.C., may be further reviewed based on the outcome in the 96-1310 proceeding.

4901:1-5-09 LEC REQUIRED SERVICE OFFERINGS

Rule 4901:1-5-09, O.A.C., was revised to clarify that 9-1-1 service was only required to be provided where available. In addition, Rule 4901:1-5-06(E)(9), O.A.C., was transferred to Rule 4901:1-5-09(B), O.A.C., and slightly amended (See above discussion under Rule 4901:1-5-06(E)(9), O.A.C.). OCC proposes in its initial comments that access to 9-1-1 and the local exchange carrier be provided to customers without other service (i.e. customers moving into a location and those whose service has been disconnected) via "warm line service". Edgemont/APAC concur in OCC's warm line proposal.

OTIA's reply comments argue strongly against OCC's "warm line" proposal. The Commission agrees with OTIA that OCC's proposal is beyond the scope of this docket and not thoroughly developed as to how it will be established, engineered and expensed.

4901:1-5-10 DIRECTORY ASSISTANCE

The time period in which a new, changed or corrected telephone listing must be provided to directory assistance and/or intercept operators in section (C) was revised

from one day to two business days, as is required in the currently effective MTSS. Proposed section (E) was revised to require that in the event of an error that the correct information be provided to directory assistance and intercept operators within two business days.

4901:1-5-11 OPERATOR SERVICES

Rule 4901:1-5-11, O.A.C., has been adopted as proposed by Staff. However, a request made by CBG is worthy of note. CBG requested that ILECs be required to, at a minimum, maintain detailed records of their compliance with the MTSS as to each of the non-facilities based entities to which it provides service. The Commission will require both the ILEC and the non-facilities based carrier to maintain adequate business records in the normal course of business to substantiate claims in the event of a dispute to be addressed by the Commission, as well as to demonstrate compliance with MTSS, local service guidelines and associated FCC Rules.

4901:1-5-12 INTERCEPT SERVICE

Upon further analysis, the Commission agrees with the commentors that it is not technically feasible not to charge a caller for calls to directory assistance when it is necessary for the LEC to reassign a subscriber's telephone number or in instances where the telephone number listed is assigned to another subscriber. Therefore, Rule 4901:1-5-12, O.A.C., section (A)(2), has been eliminated and section (C), has been revised accordingly. The Commission also agrees with the comments made as to the burdensome nature of section (D). Therefore, proposed section (D) has been eliminated. However, the Commission finds it ironic and troubling, to say the least, that GTE proposes that LECs only be required to intercept an incorrect directory listing when the central office is technically capable of interception. Pursuant to the currently effective MTSS, LECs are required to intercept an incorrect directory listing irrespective of central office technology. Proposed Rule 4901:1-5-12(B), O.A.C., is exactly the same as the current Rule 4901:1-5-11(B), O.A.C.

4901:1-5-13 BUSY LINE VERIFICATION

There were no comments filed as to proposed Rule 4901:1-5-13, O.A.C. Accordingly, this rule should be adopted as proposed by Staff with the exception of a few non-substantive clarifications.

4901:1-5-14 ESTABLISHMENT OF SERVICE

The industry commentors object, in general, to the continuation of specific criteria by which a subscriber may establish creditworthiness. OTIA proposes, and Ameritech agrees, that only the provisions of this rule that amplify Chapter 4901:1-17, O.A.C., should be retained. The Commission disagrees. OTIA fails to recognize that the Commission's disconnection policy, established in 95-790, affects the manner in which

certain provisions of Chapter 4901:1-17, O.A.C. applies to residential and nonresidential applicants for telephone service. In order to clarify and organize the specific implications of such policy, the Commission has completely rewritten proposed Rule 4901:1-5-14, O.A.C., to consist of three parts: (A) which states the implications for residential customers; (B) which states such implications for nonresidential customers; and (C) which restates verbatim the contents of proposed section (N) regarding certain changes in local service. The adopted rule, however, attempts to avoid simply repeating any portion of Chapter 4901:1-17. O.A.C., which remains unchanged or requires no amplification.

(B) Edgemont/APAC requests that each LEC's and IXC's written procedures for determining an applicant or subscriber's creditworthiness be filed with the Commission and OCC. Copies of such procedures must be submitted to the Commission or the Commission's Staff upon request pursuant to Rule 4901:1-5-04, O.A.C. The Commission, however, disagrees with the comments of Edgemont/APAC that these procedures be filed with the OCC, which may obtain copies of these procedures, pursuant to Section 4911.19, Revised Code. However, since the substance of proposed Rule 4901:1-5-14(B), O.A.C., already appears in Chapter 4901:1-17, O.A.C., and in Rule 4901:1-5-04, O.A.C., it need not be reprinted in this rule.

(C) MCI objects to being required to inform an applicant or subscriber of all options available to establish creditworthiness pursuant to proposed section (C). MCI avers that in a competitive environment a customer could just go to another carrier if they could not establish creditworthiness with a particular carrier. The Commission disagrees. MCI ignores the fact that telephone service is essential and customers should be informed of all means to obtain and maintain telephone service if universal service is to be a goal. Correct and complete information of this type is necessary for a subscriber to make informed choices in a competitive market. Therefore, the proposed section (C) has been retained and adopted as Rule 4901:1-5-14(A)(1), O.A.C.

(D) Criteria For Creditworthiness

GTE submits that certain criteria do not in reality establish creditworthiness and questions the meaning of the phrase "financially responsible". Similarly, Sprint objects to having to establish creditworthiness based on property ownership only, and further proposes that property ownership be one but not the only criteria. Sprint's comment is based on a misinterpretation of the proposed rule. For a subscriber to meet this requirement, more than mere ownership of property would be required. A demonstration of financial responsibility based on, for example, the applicant's debt payment history, credit reports from independent external sources, or payment history with another service provider would need to be made. Accordingly, the Commission disagrees with the comments of Sprint and GTE.

OCC states that proposed subsections (D)(2)(a) and (b) are inconsistent with Rule 4901:1-17-03, O.A.C., and proposes that the rule be made consistent with the Chapter

4901:1-17, O.A.C. AT&T specifically objects to the criteria set forth in (D)(2), which prescribe the means by which a carrier ensures a subscriber's creditworthiness and AT&T suggests that perhaps requirements for how the methods are implemented would be more appropriate. Finally AT&T asserts there is no justification for the proposed exhaustive list of criteria in a competitive environment. However, the Commission concludes that since proposed section (D) essentially duplicates requirements already contained in Chapter 4901:1-17, it need not be reprinted in this rule.

Similarly, MCI believes that it should be up to the carrier to decide if a subscriber can establish creditworthiness by a cash deposit and asserts, if an initial or additional deposit is required, as set forth in proposed subsection (I), the carrier should not be required to establish or re-establish service until the deposit or additional deposit is received. Further, MCI states that in lieu of a cash deposit the carriers should be given the option of placing a toll usage or billing cap on a customer for the first year of service if that customer has been unable to meet any of the other credit requirements.

The Commission disagrees with the comments of AT&T and OCC. AT&T posits that the use of guarantors will be a competitive advantage for ILECs. The proposed subsection will not provide ILECs with a competitive advantage. Guarantors for residential service enhance universal service by allowing more applicants access to the network. The Commission also disagrees with OCC that this section conflicts with Rule 4901:1-17, O.A.C. As previously noted, this section merely amplifies that section, but also makes provisions for nonresidential customers.

Furthermore, the Commission disagrees with the comments of Sprint. Sprint alleges that the credit history of an applicant with a similar type of utility service is irrelevant in a competitive market. Further, Sprint's comment ignores that Rule 4901:1-17-03, O.A.C., permits the credit history of an applicant with a similar type of utility service is relevant to a determination of creditworthiness.

AT&T argues that carriers should be free to establish their own requirements for creditworthiness to be compatible with a competitive environment. According to the industry commentors, setting forth these criteria inhibits innovative approaches to determining creditworthiness such as allowing payment through automatic debiting of a customer's bank account or advance payment plans.

MCI generally agrees with the provisions for establishing creditworthiness in proposed in Rule 4901:1-5-14(D), O.A.C., and interprets them as allowing for some flexibility, including utilizing credit checks conducted by external agencies. Furthermore, MCI hypothesizes that, with the institution of the provisions in incidences of toll fraud are likely to increase. Therefore, in its initial comments, MCI recommends additional provisions which would assist IXCs in the detection and prevention of toll fraud including:

(a) Tightened deposit requirements;

(b) Establishment of a statewide database containing information about customers who have been written off for nonpayment of bills. Such a database has been in place in California for years and has assisted in minimizing fraud;

(c) Primary interexchange carrier (PIC) reject - the IXCs should be permitted to advise the LECs, in writing, to reject any primary interexchange carrier transaction, regardless of its origination, that would select the IXC as the carrier of choice for a customer who has been de-PIC'd for nonpayment of toll for any other IXC;

(d) Leakage notification - the LECs could provide regular reports of 1+, collect and calling card traffic being carried on their switches for customers who have been de-PIC'd to a certain IXC;

(e) Toll Usage Caps - LECs and IXCs should be able to limit credit by setting toll usage caps for high risk or unknown customers; and

(f) Customer Information - a procedure should be put in place which would enable LECs and IXCs to share customer information regarding credit, toll usage caps, toll blocking or restoration, payment status/delinquencies and other information.

MCI and other toll service providers advocate toll caps. Toll caps, within limits, may be a reasonable remedy. However, there are significant details which would need to be addressed before a specific toll cap proposal could be implemented. Nevertheless, we will not eliminate this option for LECs to protect themselves in light of our new local disconnection policies. The Commission will carefully scrutinize individual toll cap applications of any LEC before such caps may be instituted. Therefore, the adopted rule includes a provision, Rule 4901:1-5-14(A)(2), O.A.C., for toll providers to utilize toll caps, when the applicant is informed of the toll cap prior to the initiation of service and the toll cap provision is incorporated into the toll service provider's approved tariffs on file with the Commission. MCI or any other toll service provider may include within its toll cap application a provision to address fraudulent practices. However, toll service

providers are put on notice that any proposed toll cap for fraudulent practices must be clearly defined and provide the suspected subscriber with notice.

(H) LEC and IXC Deposit Policies

Edgemont/APAC avers that IXC deposits should have some reasonable cap and should be based on estimated bills for the customer in question. In addition, Edgemont/APAC argues that local service deposits should be limited to two times the estimated bill for basic service. Further Edgemont/APAC argues there is no justification to allow a deposit based on additional services. The Commission notes Edgemont/APAC's support for a lower deposit amount. However, in light of the fact that we are adopting toll caps, as an additional means by which a subscriber may establish creditworthiness, the amount of the deposit need not be reduced. These proposed requirements are now adopted in Rule 4901:1-5-14(A)(3) and (A)(4), O.A.C., for local and toll service, respectively.

GTE advocates that the proposed section be revised to allow the company to set certain credit limits similar to regular credit cards, where the usage could be limited until the deposit is increased or until the outstanding balance is reduced or paid. MCI proposes that it be allowed to distinguish between residential and business customers and requests that this provision be expanded so that pursuant to a billing arrangement between the LEC and IXC, the LEC would be able to apply its own credit and deposit arrangements to a customer receiving specific services from the IXC for which billing and collection services are being provided. Such a provision is included in MCI's tariff in other states.

The Commission has elected to implement toll caps at this time, but will, however, give further consideration to credit limits as competition evolves. The Commission believes that toll caps also get to the crux of distinguishing between residential and business customers, as proposed by MCI, as toll caps will reduce the liability exposure with business customers.

(I) Deposits To Re/Establish Credit

According to Edgemont/APAC, this section is unclear and appears to contradict Rule 4901:1-17-04, O.A.C. Also, Edgemont/APAC suggest that proposed subsections 1(b) and 1(c) be amended to require that the disconnection notice and the actual disconnection are proper in order to justify a request for an additional deposit and that subsection 2 be amended to allow a subscriber to dispute the reason for requiring the deposit. Staff's proposed Rule 4901:1-5-14, O.A.C., although it is intended to amplify Rule 4901:1-17, O.A.C., is also applicable to nonresidential accounts. The Commission disagrees with Edgemont/APAC that the proposed Rule contradicts Rule 4901:1-17-04, O.A.C., and notes that Edgemont/APAC did not specifically note in what manner it believes the proposed rule contradicts the O.A.C. The Commission notes that Rule 4901:1-5-19, O.A.C., specifically outlines the requirements for the proper disconnection

of service, which implicitly is incorporated into this rule. However, entities are warned that the Commission will promptly investigate any incidents brought to its attention that companies are disconnecting service or requesting deposits on the basis of disconnections that do not comply with the MTSS or other Commission standards, rules, regulations or orders. The Commission calls to Edgemont/APAC's attention proposed Rule 4901:1-17-08, O.A.C., which states that LECs or IXCs must offer the subscriber an opportunity to appeal the company's decision to require a cash deposit. Thus, the Commission finds Edgemont/APAC's request has already been addressed.

The Commission believes that the suggestion of MCI to permit interexchange carriers to implement toll caps is a feasible suggestion which also may benefit an applicant or customer who desires toll service but may lack the financial means or finds this to be a good method to control toll usage. The Commission reiterates that it will carefully scrutinize individual toll cap applications of any LEC before such caps may be instituted. Accordingly, a provision has been added to adopt Rule 4901:1-5-14, O.A.C., which permits LECs and IXCs to incorporate toll caps into their tariff, which states:

(J) Cash Deposits

The Commission agrees with the comments made by Sprint that a receipt may not be necessary since most customers pay with a check and/or by mail. The canceled check would serve as the receipt. The section has been revised accordingly.

(K), (L), and (M) The proposed sections (K), (M) and (L) of Rule 4901:1-5-14, O.A.C., are either identical to, or essentially the same as, the text of Rules 4901:1-17-06, and 4901:1-17-08, O.A.C. and adopted Rule 4901:1-5-06, O.A.C., and need not be duplicated within this rule.

4901:1-5-15 RESIDENTIAL SERVICE GUARANTORS

MCI, AT&T and Edgemont/APAC each filed comments pertaining to residential service guarantors. AT&T is opposed to the use of guarantors, as AT&T contends such will likely benefit ILECs at the outset of competition in that the guarantor would already be a customer of the ILEC. MCI argues that telecommunication service providers should have the discretion to require guarantors to meet the same requirements as customers or a specific set of criteria for guarantors. On the other hand, Edgemont/APAC contends that the availability of a guarantor to fulfill the credit requirement to receive service should be maintained and further correctly notes that this is presently the standard pursuant to 4901:1-5-27, O.A.C. Edgemont/APAC supports the retention of guarantors as one method by which some customers can establish credit, which ultimately contributes to universal service and does not prohibit telecommunications service providers from developing other more innovative credit mechanisms to establish the creditworthiness of a potential subscriber. The Commission is persuaded by the arguments of Edgemont/APAC and concludes that 4901:1-5-15, O.A.C., Residential Service Guarantors, should be adopted as proposed.

4901:1-5-16 SUBSCRIBER BILLS

(A) As part of the rule addressing the content of a subscriber's bill, the Staff proposed that a statement be included on the bill which informed a subscriber that their local service could not be disconnected for nonpayment of unregulated services, although the delinquency could be subject to collection action. AT&T, Ameritech, Sprint, MCI, OTIA and CBG object to including such a statement on subscribers' bills. Ashtabula agrees with the LECs that such language need not appear on the bill as long as it appears in the telephone customer bill of rights. The LECs contend the statement will confuse customers because the customer may believe that the failure to pay for any services will not lead to disconnection, thus encouraging subscribers to sign up for a large number of nonregulated services knowing that they cannot have local service disconnected for failure to pay for the nonregulated services. The LECs assert that such behavior will increase uncollectibles. Furthermore, MCI emphasizes that it does not have the ability to disconnect its nonregulated services, such as paging and cellular, separately from its toll services. OTIA reasons that the proposed provision invites uneconomic behavior and has no precedent in commercial or consumer law. However, OTIA contends that if such language is included on the bill, it should be in the information section of the bill.

Edgemont/APAC believes the proposed billing statement in section (A)(8) will aid customer education. Edgemont/APAC objects to MCI's argument that they cannot separate nonregulated services from regulated services regarding the nonpayment of bills. As Edgemont/APAC correctly notes, the separation of regulated and nonregulated services has long been the law in Ohio.

Similar to section (A)(8), section (A)(14) directed LECs to include on a customer's bill a statement informing the customer of the availability of the Commission's Public Interest Center with the telephone number. MCI objects to adding the statement to customer bills that for unresolved complaints the customer may contact the PUCO. MCI argues that a statement on the bill is unnecessary given that such information is already included in the telephone customer bill of rights and would be an additional expense for smaller carriers who may provide service in multiple states.

The Commission is undaunted by MCI's argument that adding a notice on customer bills to inform them of the services offered by the Public Interest Center will result in additional expense to smaller carriers providing service in more than one state. The telephone customer bill of rights will be provided to customers only upon request. However, a customer will read and review the bill upon receipt. Therefore, the bill is likely to be one of the customer's first sources of information in the event they need to contact their service provider. Thus, the bill is one of the best tools to inform customers of their rights and responsibilities as a telecommunications subscriber. Furthermore, if a carrier wishes to do business in the state of Ohio, it is imperative that its customers know that the Commission's Public Interest Center is available to answer

questions and resolve complaints. Statements on the bill are an easy, efficient and cost effective method of educating the customer.

OCC requests that Rule 4901:1-516(A)(14), O.A.C., be amended to also inform customers how to contact OCC. While the Commission recognizes the need to inform residential subscribers of the availability of the OCC to resolve consumer disputes, it must be balanced against the cost to be imposed on service providers. Proposed Rule 4901:1-516(A)(14), O.A.C., applies to all customer bills, not just those of residential customers for whom OCC has the duty to represent. Therefore, the Commission concludes such information about the Ohio Consumers' Counsel be referenced in the telephone directory and the telephone customer bill of rights rather than on subscribers' bills where it will likely lead to customer confusion.

Ashtabula requests that the bill or the telephone customer bill of rights include a statement informing customers of their right to withhold any disputed charges. The Commission notes that pursuant to Rule 4901:1-5-19(I)(3), O.A.C. the company may not disconnect a customer's service for failure to pay any amount in bona fide dispute. The directory will reference billing disputes (pursuant to Appendix A) and direct a subscriber to the telephone customer bill of rights for further information which informs the subscriber that disputed amounts need not be paid until the dispute is resolved.

MCI and AT&T posit that carriers should be allowed to provide customers with bills at regular intervals rather than just monthly. AT&T contends that there is simply no reason why carriers and customers cannot agree to another arrangement. MCI points out an inconsistency between the proposed rule and the telephone customer bill of rights; the proposed rule requires bills to be provided at regular intervals while the Bill of Rights states that a customer be informed that he/she will receive a monthly bill. MCI and AT&T both express a preference for bills at regular intervals rather than monthly. We agree with MCI and AT&T, that the rule as well as the telephone customer bill of rights should require bills at regular intervals rather than monthly. The telephone customer bill of rights will be revised accordingly.

(B) Ashtabula and Ms. Minnick agree that itemization of charges once per year is not enough. Furthermore, Ms. Minnick argues that subscribers should be able to receive an itemization of their bill free of charge upon request. Ashtabula and Ms. Minnick, support OCC's position that detailed measured-rate bill information should be provided free of charge if there is a billing dispute. We disagree with the positions of OCC and Ms. Minnick regarding the companies providing copies of itemized bills for measured-rate service. This is an additional cost to the company which has little benefit to the majority of customers.

MCI alleges that it would be burdensome to include the rate on each bill. In reply to MCI, Edgemont/APAC argue that customers have a right to know the applicable rate and such information would logically appear on the bill, simply being able to obtain this information upon request is insufficient. The Commission agrees with

Edgemont/APAC that the rate should be on the customer's bill. This is essential information for a customer to understand his/her bills and as such should be easily obtainable.

(E). As previously noted in regards to nonregulated services, the LECs voiced objection to the statement proposed in section (E). Section (E) requires a statement informing the subscriber that toll service may be disconnected for the nonpayment of toll charges but may result in collection action. OTIA objects to the requirement to notify customers of their rights pursuant to the Commission's ruling in 95-790, as to the prohibition of the disconnection of local service for failure to pay for toll and nonregulated services. The Commission once again must remind the industry that during this transition from a monopoly to a competitive market, local exchange subscribers must be educated as to their rights and obligations, informed of the availability of services and provided with sufficient information to make decisions as to their telecommunications services. To that end it is necessary that the public know under what circumstances their local service may be disconnected. MCI requests clarification of this provision and some indication of when this statement is to appear on a customer's bill. MCI asks whether this statement is to be on all customers' bills or only on those customers' bills threatened with disconnection. The Commission clarifies that the statement is to appear on all bills issued irrespective of the threat of disconnection and on the disconnection notice also. Furthermore, in light of some of the comments received, the Commission believes commentators may have misinterpreted this section. Subsection (E) merely states that the nonpayment of toll charges may result in the disconnection of toll service only, as well as result in collection proceedings, if necessary.

(F) The proposed provision directed LECs and IXCs to retain detailed customer information for at least eighteen months. OTIA objects to the 18-month retention requirement as unnecessary and an unjustified expense. OTIA proposes that the existing procedures remain in place. The Commission disagrees with the position of OTIA that customer bills be retained for 18 months. Since billing disputes sometimes go back further than this period, this serves as a protection of not only the customers but the carriers as well.

(H) MCI states that it does not have the capability to display information regarding deposits for residential customers on the bill as required by section (H) of this rule. MCI suggests that carriers provide the information free of charge to residential and business customers upon request. In response to MCI's proposal Edgemont/APAC argues the requirement to list a deposit on the bill will remind customers of their right to have the deposit refunded and will also aid in the proper accounting of deposits. The Commission is not convinced by MCI's assertions that providing such information on request is sufficient. Furthermore, as emphasized by Edgemont/APAC, the deposit reference on the bill serves to remind customers that a company is holding a deposit. Therefore, the Commission adopts the rules as proposed.

4901:1-5-17 ACCOUNT SERVICING CHARGES

Although no comments were filed as to proposed Rule 4901:1-5-17, O.A.C., the Commission has clarified the adopted rule to reflect its intent to require that all account servicing charges including, but not limited to, late payment, dishonored check charges, collection fees, interest, service termination or reconnection, be tariffed.

4901:1-5-18 SUBSCRIBER BILLING ADJUSTMENTS

Subsections (A), (B), (C) and (D) Proposed section (A) of Rule 4901:1-5-18, O.A.C. would require the LEC to adjust the subscriber's bill when the customer was out of service for more than eight hours, except for certain circumstances beyond the control of the LEC. Under section (B), Staff proposed that a customer receive an proportionate billing adjustment for a service interruption up to 48 hours. Section (C) established a standard that the LEC install new service within five business days of the application for new service or waive all installation charges. In a similar fashion, proposed section (D) requires that a customer be given a credit equal to the amount of the installation charges when the LEC fails to meet a scheduled installation appointment or commitment, or in the event the LEC misses the repair appointment or commitment the LEC must credit the customer's account in an amount equivalent to a one-month charge for basic and regulated optional local services.

As could be expected, OCC and Ashtabula, commentors representing the consumers of the state, strongly support customer billing adjustments, although OCC proposes eliminating section (A)(4). Section (A)(4) exempts the LEC from crediting a customer's account when the company can not gain access to the subscriber's premises to make the necessary repairs. OCC contends that this provision allows for "gaming" by the company regarding missed appointments. Ashtabula supports Staff's proposal for billing adjustments, as they do not believe this is an issue best resolved between the service provider and the customers. Edgemont/APAC asks that the Commission consider that customers who participate in the Telephone Service Assistance (TSA), Service Connection Assistance (SCA) or Ameritech's Universal Service Assistance (USA) plans already receive a waiver of installation charges and there exists the possibility that LECs will schedule these customer installations in a manner to avoid paying credits to other customers. Therefore, Edgemont/APAC argues that the Commission should require a billing adjustments, equivalent to the installation charges should these customers service not be installed within five days. OTIA opposes Edgemont/APAC's proposal for additional billing adjustments to SCA/TSA subscribers, arguing that, like the Staff proposal, such a requirement would be unlawful.

On the other hand, industry commentors were opposed to mandatory enforcement of billing adjustments to customers for service outages and missed installation or repair appointments. Ameritech contends that the proposed rule regarding billing adjustments is unlawful, excessive and unrelated to the level of service provided. More specifically, OTIA claims that the proposed subscriber billing

adjustments are unlawful, excessive and unwarranted under Section 4905.32, Revised Code. OTIA further asserts that the Commission has made no investigation to determine that circumstances warrant the proposed billing adjustments. Ameritech states that ordering a prorated credit after only eight hours of interrupted service is too restrictive in that it does not take into account the time the service interruption occurs and recommends that the current standard be maintained. Ameritech further recommends that additional exceptions be included in this rule, such as natural disasters and cable cuts, to be consistent with current standards. OTIA and Ameritech also state that the proposed adjustments invite fraud on the part of dishonest customers. To the extent that the Commission can find such adjustments to be appropriate, OTIA proposes that they be limited to residential service only. Furthermore, industry commentors, Ameritech, CBT, GTE, and Sprint advocate that service providers should be permitted to develop such service guarantees thereby permitting a provider to fairly compete and distinguish itself from competitors. Sprint further argues that Commission ordered credits are not necessary with the introduction of competition, as customers will be afforded an opportunity to select another service provider. CBT alleges that the marketplace will require companies to keep appointments and repair equipment promptly. Sprint also argues that proposed Rule 4901:1-5-18(A), O.A.C., would put the company in the position of dispatching service technicians 24 hours a day, seven days a week, and is inappropriate for a variety of other reasons.

However, GTE notes that it currently utilizes a Service Performance Guarantee, which provides residential customers with a $25 credit and business customers with a $100 credit when the customer believes GTE's service has been unsatisfactory. Furthermore, while maintaining its position that Commission imposed credits are contrary to law, Ameritech offers certain suggestions and comments, in the event the Commission adopts Staff's proposal. Ameritech proposes that the Commission offer LECs the option of providing service credits for violations of the MTSS rather than order such a program and that this only be included as a LEC chosen alternative to Commission enforcement of the MTSS. Ameritech suggests that the Commission's investigative resources would be preserved under this scenario, and that this would be an interim step until competition is in place.

The industry contends that the service credits proposed in Rule 4901:1-5-18(A), (B), (C) and (D), O.A.C., could increase expense to the company which would ultimately be reflected in customers' bills. Ameritech states that if it were forced to institute service credits, a credit would only be appropriate for those customers out of service greater than 48 hours and that such credit be in addition to any prorated credit. Ameritech proposes a service credit of $5 for subscribers out of service greater than 48 hours and a service credit of $20 for those out of service greater than 72 hours. Ameritech also recommends a similar optional tiered approach to service credits for failure to meet installation standards. Ameritech proposes a service credit of $10 for installations taking more than 10 business days but less than 15 days. For installations requiring 15 days or more, Ameritech recommends a service credit of $20 and that such credits apply

only to new primary single line orders. Ameritech also recommends a $5 service credit to subscribers whose repair or installation appointment is missed. Ameritech proposes that this service credit be phased in over a two-year period. In the first year, Ameritech recommends that the credit be offered to subscribers in any calendar quarter in which the company failed to meet the 90 percent appointment objective. In subsequent years, Ameritech would apply the credit to subscribers in any month following a month where the company failed to meet the 90 percent objective. Ameritech further proposes that the service credit apply only to appointments for basic single line residential and business accounts and would not apply in certain cases that were beyond the ability of the company (i.e., inability to gain access, natural disasters).

Sprint contends that, as with proposed section (A), a service credit for missed installation appointments is inappropriate for a variety of reasons and would put the company in the position of dispatching service technicians 24 hours a day, seven days a week. Further, Sprint suggests that proposed section (C) fails to take into account that not all customers wish to have service installed within five days of contacting the company for new service installation and that it is inappropriate for the Commission to penalize the company for failure to meet a customer appointment in that oftentimes repairs or installation are more complicated than expected causing technicians to fall behind schedule. Additionally, according to Sprint, this rule could jeopardize employee safety through excessive efforts to avoid issuing customer credits.

The adopted standards streamline our enforcement efforts by requiring LECs to make billing adjustments or waive certain charges if they fail to meet repair and installation time frames or miss the related appointments. Our standards will no longer require LEC service quality performance to be measured on an exchange-by exchange basis. We recognized that the previous standards resulted in inefficient allocation of resources on the part of the LEC, and that the focus was on meeting an arbitrary performance goal and not on meeting the needs of individual customers. The adopted standards are clearly less complex and easier to administer for the LECs. Further, those customers who are actually affected by a performance breach will be provided direct relief. Moreover, based on our review of the comments from the industry and OCC, the proposed standards have been revised in that a tiered system has been adopted based on the length of the repair or installation delay, as will be more fully discussed below. Finally, an adjustment to a customer's bill for a missed appointment would only be applied when a wronged customer has specifically requested one. It is for these reasons, and reasons that follow, that we find the adopted customer billing adjustment mechanism to be reasonable, appropriate, and lawful.

At the outset, the Commission agrees with assertions by the industry that competition may render a rule mandating customer billing adjustments unnecessary. However, local competition is only in its infancy stage and, since competition does not develop uniformly or evenly, it will be some time before it fully evolves and is prevalent in all parts of the state. In a single-provider market, it made more sense to average service performance over an entire exchange because there were no built-in